

Issue IV-14 (Implementation of Regulatory Terms and Definitions)

The terms that remain in dispute concerning Issue IV-14 provide definitions and operational terms that are consistent with the Commission's decisions in the UNE Remand Order, Advanced Services Order, and the Line Sharing Order.⁷² See WorldCom Proposed ICA, Attachment III, §§ 4.2.9-4.2.12; 4.4-4.5; 4.8; and 6-6.2.4. Because WorldCom's proposed language provides a high degree of detail, it should minimize the possibility of future disputes. The Commission should therefore order inclusion of WorldCom's proposed language.

Several of WorldCom's proposed definitions implement the requirements of the UNE Remand Order. For example, WorldCom's proposed definition of the loop and subloop UNE, which appears at section 4.1 of Attachment III, references the loop demarcation point at an end-user's premises and includes inside wire as required by that Order. In addition, WorldCom's proposed loop definition includes capacity loops, attached electronics, and dark fiber as required by the UNE Remand Order. 47 C.F.R. § 51.319(a). The subloop unbundling terms proposed by WorldCom are also consistent with the FCC's UNE Remand Order. 47 C.F.R. § 51.319(a)(2). In addition, WorldCom's proposed language regarding nondiscriminatory electronic and manual access to critical loop make-up information for purposes of qualifying loops for DSL Services, see Attachment III, § 4.2.6, directly tracks the UNE Remand Order. See UNE Remand Order ¶¶ 427-431; 47 C.F.R. §§ 51.319(g), 51.5.

⁷² WorldCom initially proposed a number of contract terms to reflect the Commission's decisions in the UNE Remand, Advanced Services, and Line Sharing proceedings. WorldCom has withdrawn several of these terms based upon its agreement with Verizon regarding III-10 (Line Sharing and Line Splitting). A number of the other proposed sections are associated with other issues in this proceeding. Several other terms have been settled between the parties.

In addition, WorldCom has proposed contract language defining packet switching and requiring Verizon to provide access to packet switching as an unbundled network element as specified in the FCC's UNE Remand Order. See Attachment III, §§ 6.1-6.2. Specifically, the proposed contract language requires Verizon to provide nondiscriminatory access to unbundled packet switching where Verizon has deployed DLC systems or other fiber facilities; there are no spare copper loops available; Verizon has not permitted WorldCom to deploy a DSLAM at the remote terminal, pedestal, or vault; and Verizon has deployed packet switching for its own use. 47 C.F.R. § 51.319(c)(3).

WorldCom's proposed subloop unbundling terms are also consistent with the UNE Remand Order and its implementing regulations. See 47 C.F.R. § 51.319(a)(2). WorldCom's proposed language provides detail concerning the definition of loop feeder, and both technical requirements and interface requirements for loop feeder. See Attachment III, Section 4.4. Similarly, WorldCom has proposed contract terms defining loop distribution and setting forth technical requirements for loop distribution. See Attachment III, Section 4.5.

The contract terms proposed by WorldCom concerning provision of advanced services, including the spectral compatibility, binder management, and other advanced services-related terms, are consistent with the FCC's Advanced Services and Line Sharing Orders. See Advanced Services Order III (1999) ¶¶ 63-77; 47 C.F.R. §§ 51.230-51.233. WorldCom's proposed language requires compliance with industry standards for the provision of advanced services and a spectral compatibility process designed to ensure nondiscriminatory deployment of advanced services. See Attachment III, Sections

4.2.9-4.2.10. Similarly, WorldCom has proposed contract language memorializing the parties' obligation to develop spectrum management procedures which comply with appropriate standards. See Attachment III, Section 4.2.11. See Line Sharing Order ¶ 183. WorldCom has also proposed provisions providing for the availability of DSL capable loops. Attachment III, Section 4.2.1-4.2.3. Consistent with 47 C.F.R. § 51.232, WorldCom has also proposed non-discriminatory binder group management procedures and other processes for the elimination of interfering technologies such as AMI T1. See Attachment III, Sections 4.2.11.2-4.2.11.3. These contract terms are designed to ensure the assignment of DSL services to binder groups that do not contain AMI T1 technologies and to maximize the deployment of advanced services within binder groups, and are entirely consistent with Commission rules. See Line Sharing Order ¶ 212. WorldCom has also proposed contract terms requiring Verizon to provide central office cross-connections consistent with Commission Orders. See Attachment III, Section 4.8. Local Competition Order ¶ 386; VNE Remand Order ¶ 178-79; Line Sharing Order ¶ 12,

In sum, Verizon has failed to articulate any plausible reason to exclude these terms from the Contract, and the Commission should adopt WorldCom's proposed language.

Issue IV-15 (UNE Features, Functions, and Capabilities)

The Commission should order the inclusion of WorldCom's proposed Attachment III, Section 1.1,⁷³ which memorializes Verizon's obligations to provide WorldCom with nondiscriminatory access to UNEs and the features, functions and capabilities of the UNEs. 47 C.F.R. §§ 51.307(a)-(d) defines Verizon's obligations under Section 251(c)(3) of the Telecommunications Act by requiring (among other things) that ILECs shall provide to a requesting telecommunications carrier, for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory. See 47 C.F.R. § 51.307(a). Further, ILECs must provide a requesting telecommunications carrier access to an unbundled network element, along with all the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element. Id. § 51.307(c). WorldCom's ability to provide broad-based competitive services in Virginia requires access to all the technically feasible features, functions, and capabilities of unbundled network elements. See WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 8. Because WorldCom's proposed language provides details regarding WorldCom's right to unbundled network elements including all technically

⁷³ WorldCom's proposed language was negotiated and agreed to by Bell Atlantic and MCI and is included in the current contract approved by the Virginia State Corporation Commission.

feasible features, functions, and capabilities of those UNEs, it should should minimize ambiguity, litigation, and delayed access to the UNEs to which WorldCom is entitled. See id. In contrast, Verizon proposes an alternative Section 1.1 which simply references “applicable law” and provides no detail at all. As explained supra, it is inappropriate to simply refer to applicable law and refuse to include any detail in the ICA regarding the carriers’ rights and obligations. See Part I, supra. Therefore, WorldCom’s proposed language should be adopted.

Issue IV-18 (Multiplexing)

The Interconnection Agreement should define multiplexing and concentration and should describe this functionality.⁷⁴ Multiplexing is a familiar term of art in the telecommunications industry, and is accurately defined by the contract language proposed by WorldCom. See WorldCom Exh. 37, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 1-2. Inclusion of detailed specifications of the functionality, technical, and interface requirements of multiplexing equipment will eliminate ambiguity and minimize future disputes. Verizon has not pointed to any aspect of WorldCom's proposed definition that is inaccurate. The Commission should therefore accept WorldCom's proposed language.

⁷⁴ The related issue of whether Verizon is obligated to provide this functionality is addressed under Issue IV-21.

Issue IV-19 (Network Interface Device)

WorldCom has proposed detailed terms specifying the means of access to, and technical and interface requirements for, the network interface device. Those terms, which appear at Attachment III section 4.7.2 of WorldCom's proposed ICA, are consistent with this Commission's recognition that "an incumbent LEC must permit a requesting carrier to connect its own loop facilities to the inside wire of the premises through the incumbent LEC's network interface device, or at any other technically feasible point, to access the inside wire subloop element." UNE Remand Order ¶ 237.⁷⁵ In addition, WorldCom's proposed language was negotiated and agreed to by Verizon and WorldCom, and included in the current Virginia interconnection agreement. The Commission should therefore adopt WorldCom's proposed language.

Verizon raises two issues in opposition to the language proposed by WorldCom, neither of which has any merit. Specifically, Verizon objects to WorldCom's connection to the customer side of the NID, and to WorldCom's connection to the network side of the NID. The wire on the customer side of the NID is owned by the customer, as Verizon acknowledges, Tr. 10/4/01 at 490 (Rousey, Verizon), and Verizon should not object to WorldCom disconnecting the customer-owned wire from the NID. Indeed, Verizon has no right to object to anything having to do with the customer's inside wire. The existing agreement between MCI and Bell Atlantic, approved by the Virginia SCC, contains a provision that permits WorldCom to move inside wire from the Bell Atlantic NID to an MCI NID, and there is no reason to change the existing arrangement.

⁷⁵ Although Verizon asserts that its proposal is consistent with the UNE Remand Order, WorldCom's language plainly tracks the requirements of this paragraph.

The Commission should also reject Verizon's proposal that WorldCom be required to access the NID, in all circumstances, via a Verizon-supplied cross connect to a WorldCom NID. This proposal is inconsistent with WorldCom's legal right to use Verizon's NID as a stand-alone UNE, see VNE Remand Order ¶ 237. Moreover, the existing Interconnection Agreement between MCI and Bell Atlantic, approved by the Virginia SCC, contains a provision allowing MCI to connect directly to Bell Atlantic's NID. Further, Verizon's approach will add unnecessary expense and equipment to the network. For example, if an entrance module is not available, Verizon's proposal requires WorldCom to establish its own NID and utilize a cross connect. This forces WorldCom to incur expenses which would not be necessary if WorldCom were permitted to 1) either connect its loop to the customer using Verizon's NID, or 2) disconnect the customer from Verizon's NID and connect them to WorldCom's NID. See WorldCom Exh. 37, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 8. Although Verizon raises concerns about electrical safety, WorldCom's proposed language makes clear that WorldCom will not disconnect ground wires from Verizon's NIDs, enclosures, or protectors.

Issue IV-21 (Transport)

During the mediation sessions, Verizon accepted most of WorldCom's proposed language related to dedicated transport. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 6-10. The issues that remain in dispute are: whether WorldCom may order multiplexing as a feature or function of dedicated transport; whether WorldCom may order digital cross connects (DCS) as a feature or function of dedicated transport; and whether WorldCom may use dedicated transport in conjunction with facilities purchased out of special construction priced tariffs to provide physical redundancy. Each of these issues should be resolved in WorldCom's favor.

A. WorldCom Should Be Allowed To Order Multiplexing As A Feature Or Function Of Dedicated Transport.

Verizon is required to provide WorldCom with multiplexing because multiplexing is a feature, function, or capability of the transport or loop UNE.⁷⁶ The Commission's regulations specify that "An incumbent LEC shall provide a requesting telecommunications carrier access to an unbundled network element, along with all of the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element." 47 C.F.R. § 51.307(c)

⁷⁶ Contrary to Verizon's claim, WorldCom has not asserted that Verizon is required to provide multiplexing as a stand-alone UNE or as part of a combination of UNEs. Indeed, Verizon cannot even explain its own theory that WorldCom has requested multiplexing as a combination. See Tr. 10/4/01 at 411 (Gansert, Verizon) (noting only that multiplexing is "a combination of something").

(emphasis added).⁷⁷ One of the “features, functions, and capabilities” of a loop or transport circuit is that its capacity may be “channelized,” i.e., subdivided into several lower-capacity circuits. For example, it is technically feasible to subdivide the capacity of a DS-3 circuit into several DS-1 and DS-0 channels. Consequently, in order for Verizon to comply with its duty to provide requesting carriers with all of the features, functions, and capabilities of the loop or transport element, it must provide requesting carriers with the capability to configure channels within a loop or transport facility. For example, Verizon must allow a CLEC that has ordered DS-3 unbundled transport to specify the multiplexing necessary to configure DS-1 and DS-0 channels within that DS-3. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 13.

Verizon acknowledges that multiplexing is a functionality of transport,⁷⁸ see Verizon Exh. 23 at 4-5, but refuses to provide multiplexing unless it occurs in the middle of a circuit with the same speed at either end. Tr. 10/4/01 at 408-409.⁷⁹ Verizon’s claim that this same functionality is not available when a CLEC requests it to aggregate smaller bandwidth channels onto a higher speed, more efficient channel, such as multiplexing a DS-1 signal onto a DS-3 circuit, see Tr. 10/4/01 at 410, cannot withstand scrutiny.

⁷⁷ In addition, Section 51.319(d)(2)(B) (Interoffice facilities) provides that “The incumbent LEC shall provide all technically feasible transmission facilities, features, functions, and capabilities that the requesting telecommunications carrier could use to provide telecommunications services.”

⁷⁸ Verizon agrees that the essential characteristic of multiplexing is that it aggregates together a number of lower bit rate channels to transport on a higher bit rate channel. Tr. 10/4/01 at 496 (Gansert, Verizon). Thus multiplexing would include aggregating DS-1 channels on a D-3 circuit.

⁷⁹ For example, Verizon will multiplex a DS-1 signal to an optical level and then demultiplex it back to a DS-1.

Verizon has admitted that multiplexing is a functionality of transport, and Verizon cannot pick and choose when to make this functionality available. Aggregating lower bandwidth signals onto a higher bandwidth circuit to take advantage of the efficiencies of that arrangement is the essence of multiplexing. Tr. 10/4/01 at 496 (Gansert, Verizon).

The limitation that Verizon seeks to place on its obligation to provide multiplexing as a functionality of the transport UNE is wholly of its own making, and has no basis in the law. As Verizon acknowledges, it must provide multiplexing as a transport functionality when a CLEC orders DS-3 transport, and Verizon multiplexes the traffic to an optical level, and then demultiplexes it back to a DS-3. Tr. 10/4/01 at 409-10 (Gansert, Fox, Verizon). Neither the Commission's regulations nor common sense supports Verizon's position that multiplexing is a transport functionality only in that circumstance but not a transport functionality when a CLEC orders DS-3 transport and requires that it be demultiplexed to DS-1 transport. As this Commission recognized in the Clarification Order, "When a loop-transport combination includes multiplexing (e.g., DS-1 multiplexed to DS-3 level), each of the individual DS-1 circuits must meet this criteria." Clarification Order ¶ 22. The Clarification Order also provides for multiplexing between circuits of two different speeds.⁸⁰ While the Order deals with combinations of the loop and transport elements, the same principle would also apply to multiplexing between two transport circuits of different speeds, DS-1 and DS-3.

⁸⁰ Indeed, Verizon acknowledges that multiplexing is a transport functionality in this instance, which must be provided between the DS-1 and DS-3 circuits. Tr. 10/4/01 at 417-418 (Fox, Verizon).

Verizon's suggestion that multiplexing is outside the definition of transport is simply incorrect.⁸¹ The definition of the transport element includes all technically feasible capacity-related services, including those provided by electronics that are necessary components of the functionality of capacity-related services. See UNE Remand Order ¶ 323. Indeed, the UNE Remand Order specifically cites the NEC RC-28D, a type of DS-3/DS-1 multiplexer, as an example of the electronics that are encompassed within the definition of unbundled transport. See id. ¶ 323 n.637.

The Commission should therefore accept the multiplexing provision proposed by WorldCom which appears at Attachment III, Section 10.2.4 of the current interconnection agreement between MCI and Bell Atlantic.

B. WorldCom Should Be Allowed To Order Digital Cross Connects as a Feature or Function of Dedicated Transport.

Section 51.319(d)(2)(D) of the Commission's rules states in the clearest possible terms that an ILEC must permit requesting carriers to obtain the functionality provided by the ILEC's digital cross-connect systems in the same manner that the ILEC provides such functionality to interexchange carriers. 47 C.F.R. § 51.319(d)(2)(D); see also Tr. 10/4/01 at 519-520 (Fox, Verizon). Verizon acknowledges this rule in its testimony, but contends that it need not provide digital cross-connect functionality because "the functionality of DCS is not something Verizon VA provides to interexchange carriers on an unbundled basis." Verizon Direct Test. Unbundled Network Elements at 6.

⁸¹ Verizon has expressed this position in various ways at different times. See e.g., Tr. 10/4/01 at 412 (Fox, Verizon). "That's not something we believe is required by the UNE Remand Order because that would be providing multiple transmission levels over multiple circuits."

Verizon's contention that it does not provide IXC's with access to digital cross-connect systems is simply false. WorldCom's proposed contract language closely tracks the Commission's rules, and requires Verizon to provide access to the digital cross connect system identified in Verizon's tariff – the Intellimux system. These provision are identical to those contained in the current interconnection agreement between WorldCom and Bell Atlantic and should be included in this agreement. Tr. 10/4/01 at 517-518 (Buzacott, WorldCom). According to Verizon's Tariff FCC No. 1, IXC's may use Verizon's IntelliMux service to communicate instructions "to the digital cross-connect system(s) (DCSs) associated with the customer's services to effect ... reconfiguration."⁸² Notably, the AT&T ex parte letter cited in the Local Competition Order's discussion of DCSs "available for the termination of interexchange traffic" identifies Bell Atlantic's IntelliMux service as an example of such a DCS.⁸³ Because Verizon permits IXC's to use DCS functionality using IntelliMux, Section 51.319(d)(2)(D) of the Commission's rules requires Verizon to permit CLECs to use DCS functionality through Verizon's IntelliMux capabilities. WorldCom Exh. 25, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 14-15.

C. WorldCom Should Be Allowed To Use Dedicated Transport In Conjunction With Facilities Purchased Out Of Special Construction Priced Tariffs To Provide Physical Redundancy.

The interconnection agreement should allow WorldCom to use dedicated transport in conjunction with facilities purchased out of tariffs to provide physical

⁸² Verizon Tariff FCC No. 1, Section 7.2.12 (B).

⁸³ Local Competition Order ¶ 444 n.990 (citing letter from Bruce K. Cox, AT&T to William F. Caton, Acting Secretary FCC, July 18, 1996).

redundancy.⁸⁴ There is no dispute that it is technically feasible for Verizon to provide this arrangement as WorldCom requests, or that Verizon would provide the same physical facilities to its own retail customers as they require.⁸⁵ The Commission has never suggested that an ILEC may refuse to allow CLECs to employ UNEs and tariffed services together, except in the limited case of EELs which is unrelated to the situation implicated here. Accordingly, the Commission should adopt WorldCom's proposed Section 10.2.2.

WorldCom's proposed contract language simply reaffirms that, in those instances where physical diversity is not reasonably available, Verizon's interstate and intrastate tariffs entitle WorldCom to order such diversity by submitting a request for special construction. Specifically, WorldCom should be able to order through Verizon's tariff the construction of new facilities to use with pre-existing leased dedicated transport in order to provide physical diversity. Although Verizon appears to misunderstand WorldCom's use of the term "special construction," that phrase simply refers to services offered pursuant to the special construction provisions of Verizon's interstate and intrastate tariffs.⁸⁶ Those provisions indicate that, for certain tariffed services, Verizon will build facilities at the direction of its wholesale or retail customers (special construction), provided that the customer pays the cost of the construction at tariffed rates. WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 14.

⁸⁴ Verizon acknowledges that it is possible to create diversity by ordering unbundled transport and the special construction provisions of its tariff. Tr. 10/4/01 at 515-516.

⁸⁵ See, e.g., Verizon Telephone Companies Tariff FCC No. 6.

⁸⁶ Therefore, this issue does not implicate the vacated "superior quality" rules or any other unbundled element-related rules.

There is no legitimate reason for Verizon to refuse to provide to WorldCom what Verizon provides to its retail customers (through its special construction tariff). Carriers frequently provide their customers redundancy, so that if one set of facilities breaks down, the customer will continue to receive service without interruption over another set of facilities. See id. at 13. One of the reasons some local customers in particular seek service from WorldCom is to assure themselves of redundancy in the event their Verizon local service fails. WorldCom therefore often needs to be able to offer service over two distinct routes, so that if one of the routes is interrupted, the service can seamlessly flow over the other route. See id. Indeed, as a practical matter that may be the only way for WorldCom to provide its customers the diversity they demand.

Issue IV-23⁸⁷ (Call Related Databases-LIDB)

The interconnection agreement should not restrict WorldCom's right to use the LIDB UNE to local calls.⁸⁸ Verizon's proposal to limit WorldCom's right to use LIDB in this manner conflicts with the Act and this Commission's implementing regulations. The current Interconnection Agreement between MCI and Bell Atlantic does not contain the restrictions that Verizon is now attempting to impose, and the Commission should reject Verizon's proposed language.

At the outset, Verizon's proposal to restrict WorldCom's use of the LIDB UNE to local calls only is completely at odds with the Act and the Commission's Rules. See Tr. 10/4/01 at 598 (Woodbury, Verizon) (admitting that the UNE Remand Order placed no restrictions on the use of the LIDB UNE). Section 251(c)(3) of the Act provides that a requesting carrier can use unbundled network elements for the provision of any telecommunications service. 47 U.S.C. § 251(c)(3). As this Commission has explained, "section 251(c)(3) permits interexchange carriers and all other requesting telecommunications carriers, to purchase unbundled elements for the purpose of offering exchange access services, or for the purpose of providing exchange access services to themselves in order to provide interexchange services to consumers." Local Competition Order ¶ 356. In fact, this Commission has expressly rejected the type of use restriction

⁸⁷ During the mediation phase of this proceeding, Verizon accepted the majority of WorldCom's proposed contract language regarding call related databases, and the only remaining dispute concerns LIDB. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 15. The agreed-to language is included at pages 16-20 of WorldCom Exhibit 25.

⁸⁸ As a practical matter, the use restriction proposed by Verizon would prevent WorldCom from using the LIDB UNE altogether because LIDB is used almost exclusively in connection with toll calls. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 22.

that Verizon proposes, and has declined to “read into the current statute a limitation on the ability of carriers to use unbundled network elements, despite the fact that no such limitation survived the Conference Committee’s amendments to the 1996 Act.” Id. ¶ 359; see also id. ¶ 292 (“For example, incumbent LECs may not restrict the types of telecommunications services requesting carriers may offer through unbundled elements. ...”). The Commission reaffirmed this principle in the UNE Remand Order, and again expressly refused to read a use restriction into the Act. See UNE Remand Order ¶ 484; see also Tr. 10/4/01 at 598 (Woodbury, Verizon) (acknowledging that the UNE Remand Order did not impose restrictions on the use of the LIDB UNE; 47 C.F.R. § 51.309(a) (preventing ILECs from placing use restrictions on CLECs’ access to UNEs “that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends”).

Verizon’s proposed restriction also violates the Act’s requirement that Verizon provide “nondiscriminatory access to network elements on an unbundled basis.” 47 U.S.C. § 251(c)(3). Verizon allows interexchange carriers to use LIDB in connection with toll calls, and Verizon uses LIDB to offer the LIDB functionality to IXC’s as a service in its access tariff. Verizon Exh. 24, Rebuttal Test. Unbundled Network Elements at 4-5. Since Verizon offers this service to IXC’s, the Act’s nondiscrimination provisions requires Verizon to provide WorldCom with the same opportunity to access the LIDB network element in order to provide exchange access service.

Finally, Verizon’s proposal violates the regulatory requirement that a CLEC’s access to a UNE must be equal to that which the ILEC provides to itself. See 47 C.F.R. §

51.311(b). Verizon has access to LIDB for billing its toll as well as local traffic.⁸⁹ To deny the same access to WorldCom is plainly unlawful. In sum, WorldCom is legally entitled to access the LIDB database as an unbundled network element for use in the provision of all telecommunications services, including exchange access.

Although Verizon objects to WorldCom's request that it be allowed to use the LIDB UNE for exchange access, Verizon fails to grapple with the overwhelming body of law that supports WorldCom's position, nor could it. Instead, Verizon has simply offered arguments that this Commission has already rejected. For example, although Verizon asserts that WorldCom's proposal would nullify the LIDB access tariffs and eliminate all revenue for such access, this Commission has expressly recognized that the Act would likely change the volume of access services provided to interexchange carriers. See Local Competition Order ¶ 358. The Commission has also rejected Verizon's argument that using the LIDB UNE in lieu of an ILEC's tariffed access services is "contrary to the express mandate of Congress in Section 251(g) of the Act. Verizon Exh. 24, at 9.

Specifically, the Commission stated:

We disagree with the incumbent LECs which argue that section 251(g) requires requesting carriers using unbundled elements to continue to pay federal and state access charges indefinitely. ... We believe this provision does not apply to the exchange access services requesting carriers may provide themselves or others after purchasing unbundled elements. Rather, the primary purpose of section 251(g) is to preserve the right of interexchange carriers to order and receive exchange access services if such carriers elect not to obtain exchange access through their own facilities or by means of unbundled elements purchased from an incumbent.

⁸⁹ Verizon indicated that 30% of its intraLATA use of LIDB is local. However, Verizon excluded all interLATA use from this calculation. Tr. 10/4/01 at 599. The percentage of use associated with local calling would be much lower if all uses of LIDB were included in Verizon's calculation.

Local Competition Order ¶ 362. In sum, Verizon's proposed restrictions on access to LIDB is squarely prohibited by the Act and this Commission's regulations, and must be rejected.

Issue IV-24 (Directory Assistance Database)

The Interconnection Agreement should contain terms that ensure that WorldCom continues to receive the directory assistance database after expiration of the Directory Assistance License Agreement (“DAL Agreement”) between Verizon and WorldCom. Verizon currently provides a bulk download of its directory assistance database to WorldCom through an electronic transfer pursuant to that DAL Agreement, which was entered into by the parties on November 19, 1998. See WorldCom Exh. 10, Direct Test. of E. Caputo at 4.⁹⁰ Because continued receipt of the database and updates is necessary to ensure WorldCom’s continued and uninterrupted ability to provide directory assistance to its customers, WorldCom has proposed the inclusion of a sentence that incorporates the existing DAL Agreement terms into the Interconnection Agreement by reference.⁹¹ This language is identical to the language in the existing interconnection agreement between MCI and Bell Atlantic, see WorldCom Exh.10, Direct Test. of E. Caputo at 6, and should be adopted by the Commission.

In addition, the Commission should specifically affirm that the DA database remains an unbundled network element and that Verizon therefore remains obligated to provide the database under Section 251(c)(3). Although the Commission held in the

⁹⁰ The DAL Agreement will likely expire by November 30, 2004. Tr. 10/4/01 at 632-633. It is likely that a new ICA will not be in place until about June 2002 because it typically takes several months after an arbitration order for the parties to prepare a new conforming contract and receive Commission approval of the new contract. The new ICA will be effective until June 2005. Incorporating the DAL Agreement into the ICA by reference will insure that WorldCom continues to receive the DA database between November 2004 and June 2005.

⁹¹ WorldCom does not seek in this arbitration to alter the terms of the DAL Agreement. All WorldCom seeks is a means to insure that it continues to receive the DA database after the DAL Agreement expires.

UNE Remand Order that Operator Services/Directory Assistance databases are Call-Related Databases that must be provided as unbundled network elements, see UNE Remand Order ¶¶ 15-16, Verizon has asserted during the course of this proceeding that the directory assistance database is not a UNE. Verizon attempts to support its claim that the DA database is not a UNE by citing a series of Commission orders which have addressed the obligations of carriers to provide the database under the dialing parity provisions of Section 251(b)(3). The fact that the Commission has issued orders addressing the obligations of all local exchange carriers arising under the dialing parity provisions of the Act, however, does not constitute a finding by the Commission that the obligation of incumbent LECs to provide the DA database as a UNE has been suspended. Verizon's suggestion that the Commission has sub silentio reversed its finding in the UNE Remand Order that the DA database is a UNE also ignores the fact that a decision to remove the DA database from the list of UNEs requires a clear, explicit statement from the Commission, such as that made when the Commission found that DA/OS were no longer UNEs.⁹² The Commission has issued no such finding regarding the DA database.

⁹² Although the Commission also found that incumbent's directory assistance and operator services need not be unbundled, if they provide the necessary customized routing, Verizon recognizes that operator services and directory assistance service are distinct from the directory assistance database. Tr. 10/4/01 at 604.

IV-25 (CNAM)

The interconnection agreement should require Verizon to allow MCI to have “full,” “batch” access to Verizon’s entire CNAM database in a bulk, downloadable format. As explained below, CNAM is an unbundled network element (“UNE”), and the Act’s nondiscrimination provisions entitle MCI to the same ready access to that call-related database as Verizon enjoys. The Commission should therefore adopt WorldCom’s proposed language on this issue.

Pursuant to section 51.319(e)(2)(A) of the Commission’s Rules, Verizon must provide nondiscriminatory access to call-related databases. Accordingly, these databases must be allowed to reside in WorldCom facilities just as they reside in Verizon’s facilities. Because batch file access will afford WorldCom the same level of control of the database as Verizon enjoys, section 51.319 requires Verizon to provide WorldCom with batch access. See WorldCom Exh. 17, Direct Test. of M. Lemkuhl at 4.

Per dip access to the CNAM database is also discriminatory because it improperly forces WorldCom to incur additional expense. As this Commission has recognized, “new entrants would incur the additional time and expense that would arise from having to take the data from the providing LEC’s database on a query-by-query basis then entering the data into its own database in a single transaction. ... Such extra costs and the inability to offer comparable services would render the access discriminatory.” 1999 Directory Listing Order ¶ 152. For example, when per-dip access is used, if a customer frequently dials the same number (e.g., calls to one’s mother), the CLEC must dip for that number, and pay for it, multiple times. In contrast, if the database were provided in a downloadable format, the CLEC would only pay for that information once. Tr. 10/4/01

at 637, 649 (Lemkuhl, WorldCom). Accordingly, for some CLECs such as MCIIm, it would be more economical to obtain the full contents of the database and maintain its own database rather than accessing it on a dip by dip basis.

Although Verizon has indicated that it would be required to undertake development work in order to provide batch access to the CNAM database, Verizon has not disputed the fact that batch access is technically feasible. Indeed, the Georgia and Michigan state commissions have ordered that incumbent LECs provide the CNAM database in a downloadable format, and Ameritech has already developed a process by which the CNAM database is made available in a bulk format. See In re: Application of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to Certain UNE Offerings, No. U-125490 at 21 (Mich. Pub. Util. Comm'n, Mar. 2001); Petition of MCImetro Access Transmission Services, LLC and MCI MCIIm Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996, No. 11901-U at 9 (Ga. Consumers' Util. Counsel, Feb. 2001). Because other carriers provide access in this manner, it is presumed to be technically feasible to do so, and Verizon bears the burden of demonstrating that it is not. It has not begun to do so. Indeed, while other carriers implement batch access, Verizon has not even begun the work that it claims is necessary to provide bulk access, it cannot identify the scope of that work, and, notably, Verizon has not sought to determine how much work was involved. Tr. 10/4/01 at 613 (Woodbury, Verizon).

Further, Verizon's insistence that it will only offer standard SS7 access to the CNAM database, see Tr. 10/4/01 at 611 (Woodbury, Verizon), hinders WorldCom's ability to innovate and develop new forms of access. Id. at 638-639 (Lemkuhl, WorldCom). Specifically, if MCIm received batch access to the database it could operate its own database to support services for its end users, and it would not be bound by Verizon's restrictions. WorldCom could then develop the capability to offer CNAM database services to other carriers through methods that might more efficient and less costly. For example, WorldCom could offer CNAM over TCP/IP rather than on the costly SS7 network. WorldCom Exh. 17, Direct Test. of M. Lemkuhl at 9. Restricting WorldCom to per dip access prevents WorldCom from making such developments.

In sum, Verizon's attempt to allow only "per dip" access to the CNAM database is discriminatory, and should be rejected by this Commission.

Issues IV-80 & 81 (DA/OS And Customized Routing)

The Interconnection Agreement should contain terms setting forth Verizon's obligation to provide customized routing of WorldCom's OS/DA traffic to the Feature Group D ("FGD") trunks designated by WorldCom. See WorldCom Exh. 10, Direct Test. of E. Caputo at 13. Although Verizon has indicated that it can and will provide the customized routing described by Mr. Caputo through Verizon's AIN capabilities, see Verizon Exh. 24 at 31-32; Tr. 10/4/01 at 615 (Woodbury, Verizon), Verizon has also taken the position that the Interconnection Agreement should contain no terms addressing customized routing or OS/DA. See id. at 618-619 (Woodbury, Verizon). As explained below, it is critical that the Agreement contain those terms, and the Commission should therefore adopt WorldCom's proposed language.

If contract terms addressing customized routing are not adopted by the Commission now, there will be, at best, a significant delay in putting contract terms in place. Assuming that the parties were able to reach agreement, negotiating the terms of customized routing outside of the context of the ICA and this arbitration would cause considerable delay; given that two years have already elapsed since WorldCom began the negotiation process with Verizon, such delay is unacceptable. Moreover, the history of this proceeding suggests that it may be impossible for the parties to reach agreement and establish contract terms once the Commission's involvement in this proceeding ends, because at that time Verizon will have little incentive to agree to any terms.

WorldCom's proposed language regarding customized routing is reasonable, and should be adopted by this Commission. The first sentence that WorldCom proposed simply memorializes Verizon's commitment to route OS/DA traffic to the FGD trunks

designated by WorldCom using AIN capabilities, and provides for routing of OS/DA traffic to the FGD trunks designated by WorldCom by means other than AIN capabilities. This provision is appropriate because the AIN routing has not yet been tested by Verizon. Indeed, Verizon's witness agreed that testing of the AIN customized routing solution would be advisable and that until now no other carrier had asked for FGD routing. Tr. 10/4/01 at 615, 620. If for some reason the customized routing via AIN capability does not work, Verizon is still required by the Commission's orders to provide customized routing to the FGD trunks designated by WorldCom, because Verizon's obligation is not limited to routing which uses AIN capability. UNE Remand Order ¶ 441 n.867.

The remainder of WorldCom's language addresses the rights and responsibilities of the parties in the event that Verizon's proposed AIN solution does not work, and is particularly appropriate given Verizon's witness's inability to explain what would happen in that situation. See Tr. 10/4/01 at 653-654. The second sentence proposed by WorldCom simply memorializes this Commission's holding in the UNE Remand Order that incumbent LECs must offer OS/DA as an unbundled network element to the extent they have not accommodated technologies used for customized routing. UNE Remand Order ¶¶ 462-463. Specifically, it provides that if Verizon does not provide this customized routing to WorldCom, Verizon shall provide OS/DA to WorldCom as an unbundled network element. The third sentence proposed by WorldCom provides that the parties shall negotiate the terms, conditions, and cost-based rates for providing unbundled OS/DA services in the event that Verizon does not provide the appropriate customized routing. The fourth sentence proposed by WorldCom provides that where

Verizon provides OS/DA service on a resale basis, Verizon shall provide such services at parity and on a nondiscriminatory basis.

Issue VI (1)(E) (UNE Restrictions/Changes In Applicable Law)

The Commission should reject the language that Verizon has proposed in connection with Issue VI-(1)(E), which establishes a separate change of law provision for UNEs and imposes numerous restrictions on the availability of UNEs. See Verizon Proposed ICA §§ 1.1-1.6. As explained below, the ICA's general change-of-law are properly applied to all changes in relevant law, including changes related to UNEs, and Verizon's proposed UNE-specific language is both unreasonable and anti-competitive. Such terms have no place in the parties' interconnection agreement, and should be excluded.

The change of law provisions governing the entire interconnection agreement, which are set forth in the general terms and conditions and are disputed in this arbitration under Issue IV-113, should also govern how the Parties address, negotiate, and if necessary, seek to resolve disagreement over an amendment arising from a change in the law with respect to network elements. There is no reason to treat this subset of changes in law any differently than changes in the laws that govern other aspects of the interconnection agreement. Verizon's witnesses have failed to justify carving out network elements for separate and disparate treatment, and Verizon's proposal should therefore be rejected.

Further, the UNE-specific change-of-law provisions that Verizon has proposed are anti-competitive. Verizon reserves the right (see Verizon Proposed ICA §§ 1.1, 1.5) to discontinue offering, and to disconnect network elements that Verizon unilaterally determines it is no longer required to provide WorldCom under applicable law. Verizon

maintains that it should not have to negotiate with WorldCom in this situation, and that within 45 days it can simply terminate access to the UNE it believes it is no longer required to provide. See Tr. 10/05/01 at 675-76 (Antoniou, Verizon). Termination of access to a UNE jeopardizes WorldCom's ability to serve its customers. See WorldCom Exh. 12, Direct Test. of C. Golfarb, A. Buzacott, and R. Lathrop at 24. As explained elsewhere in the brief, it is anticompetitive and improper to give a competitor this ability to disrupt WorldCom's business operations. See, e.g., Issue I-11.

Even if it were appropriate for Verizon to unilaterally decide to terminate access to a UNE, the 45-day grace period that Verizon has proposed is unreasonably short. It is not reasonable to expect that WorldCom could make alternative arrangements to replace a withdrawn UNE in 45 days. The results would be even more disruptive if WorldCom were serving thousands of customers with the UNE that Verizon decides to terminate. Tr. 10/05/01 at 675-676 (Lathrop, WorldCom). Once an appeal or reconsideration is resolved, and the Commission confirms its decision that a UNE need not be provided, a transitional period is required to prevent interruption of service. Tr. 10/05/01 at 681 (Lathrop, WorldCom).

Although Verizon proposes to give itself the right to terminate services unilaterally and without limitation, its proposed language fails to provide for swift implementation of changes in law that add to Verizon's obligations to provide UNEs. Instead, Verizon would allow an open-ended and potentially drawn out negotiation process to define the terms, conditions, and pricing of any network elements that Verizon must provide in such a situation. This stands in stark contrast to Verizon's proposal to

implement any purported reductions in its obligations within 45 days, and highlights the unreasonableness of Verizon's proposed language.

Verizon's proposed Section 1.6 appears to be an attempt to reserve Verizon's right to argue against its Section 251(c)(3) obligations and the obligations to provide specific network elements to competing carriers. Its phrasing, however, is objectionable because, either through negotiation or by arbitration order, Verizon must agree to provide the network elements set forth in this agreement. The Interconnection Agreement is not a forum for Verizon to set forth its regulatory positions.

In sum, the language that Verizon has proposed regarding changes-in-law affecting its UNE obligations, and imposing restrictions on its UNE obligations, is unnecessary, unreasonable, and anti-competitive, and should be rejected by this Commission.

Issue VI-3(B)

Network Elements – Technical Standards and Specifications

The Commission should adopt WorldCom's proposed language with respect to Issue VI-3(B), which is found at section 3 of Attachment III of WorldCom's proposed contract. That language – which has been included in every MCImetro/BellAtlantic-South interconnection agreement (including the most recent agreement entered into in Maryland – ensures that WorldCom obtains the technical data required by 47 C.F.R. § 51.307(e). See WorldCom Exh. 52: Responses to Record Requests at 1-2.

Verizon's objections to inclusion of this provision are makeweights. During the hearing, Verizon conceded that the information WorldCom has sought – engineering, design, performance, and other network data – constitutes “technical data.” Tr. 10/03/01 at 147 (J. Gansert, Verizon). Verizon nonetheless asserted that WorldCom's language should be rejected because, for example, it uses the term “parity,” which Verizon finds objectionable. Verizon Exh. 23, Unbundled Network Elements Additional Direct Testimony on Mediation Issues at 9-10. During cross-examination, however, Verizon's witness conceded that if that word was replaced with the phrase “at least equal in quality to that which the incumbent LEC provides to itself” – a substitution WorldCom would accept – this objection is mooted. Tr. 10/03/01 at 121-122 (C. Antoniou, Verizon).

Indeed, Verizon's primary objection appears to be that the contract language proposed by WorldCom is detailed. See id. at 123-125. When pressed, however, Verizon did not identify any substantive concerns with the language contained in WorldCom's proposed contract language. See id. As WorldCom has repeatedly stressed,

however, implementing detail is critical in order to avoid disputes between the parties. See, e.g., WorldCom Exh. 37A, Supplemental Rebuttal Testimony of C. Goldfarb, A. Buzacott and R. Lathrop at 6-7. Because Verizon has not identified any plausible basis for exclusion of this language, and especially given that Verizon has agreed to inclusion of this language in every contract in the former Bell Atlantic-South, the Commission should order inclusion of this proposed language.